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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,302	11/27/2000	Brian P. McDavitt	50622	5593
21874	7590	07/06/2004	EXAMINER	
EDWARDS & ANGELL, LLP			RAPP, CHAD	
P.O. BOX 55874			ART UNIT	
BOSTON, MA 02205			PAPER NUMBER	
			2125	

DATE MAILED: 07/06/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/723,302

Applicant(s)

MCDAVITT ET AL.

Examiner

Chad Rapp

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. Claims 1-12 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nick.

- a. Receiving from a manufacturer a desire to manufacture a number of products is taught as a customer order or products(abstract);
- b. Determining an amount of materials required to produce said number of products is taught as using materials management system(abstract);
- c. Determining a process for manufacturing said number of products is taught as scheduling assembly(abstract);
- d. Calculating a cost to manufacture said number of products based on said amount of material and said process is taught as pricing the various product configurations(col. 2 lines 50-57);
- e. Providing to said manufacturer said process and said cost to manufacture said number of products is taught as the sales office(col. 2 lines 58-63).

As to claim 2, Nick teaches receiving from said manufacturer a payment proportional to said cost to manufacture said number of products is taught as the function of order-payment system(col. 9 lines 52-65).

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As to claim 3, Nick teaches providing said amount of materials to said manufacturer is taught as the materials management system(abstract).

As to claim 6, Nick teaches wherein said materials is provided by material provider and said process for manufacturing said number of products is the intellectual property of said materials provider is taught as ordering of custom parts(see fig. 6).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 7-10 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nick.

a. A product database storing a plurality of products, said product database including a material list and a process description for manufacturing each of said plurality of products is taught as a products database(col. 9 line 39 and fig. 10);

b. A pricing engine, said pricing engine accessing said product database for determining an amount of materials, a process and a cost for manufacturing said number of products is taught as pricing the various product configurations(col. 2 lines 50-57).

As to claim 8, Nick teaches further comprising a manufacturer interface module said manufacturer interface module providing to said amount of materials and said process for

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manufacturing said number of products is taught as using the materials management system (abstract).

As to claim 9, Nick teaches receiving from said manufacturer a payment proportional to said cost to manufacture said number of products is taught as the function of order-payment system(col. 9 lines 52-65).

As to claim 10, Nick teaches providing said amount of materials to said manufacturer is taught as the materials management system(abstract).

As to claim 13, Nick teaches wherein said materials is provided by material provider and said process for manufacturing said number of products is the intellectual property of said materials provider is taught as ordering of custom parts(see fig. 6).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nick in view of Pennisi et al.

Nick teaches independent claim 1 see paragraph number 3 above.

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As to claim 4, Pennisi et al. teaches wherein said process requires a tool, said method further comprises providing said manufacturer said tool is taught as tool design(col. 2 lines 55-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made or used to modify the teachings of Nick with the teachings of Pennisi et al. because it allows to optimize process and rapidly realizes a product.

As to claim 5, Pennisi et al. teaches wherein said process for manufacturing said number of products is an optimum process is taught as optimum path through the processes(abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made or used to modify the teachings of Nick with the teachings of Pennisi et al. because it allows to optimize process and rapidly realizes a product.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nick in view of Pennisi et al.

Nick teaches the claimed invention(claim 7) see paragraph number 5 above.

As to claim 11, Pennisi et al. teaches wherein said process requires a tool, said method further comprises providing said manufacturer said tool is taught as tool design(col. 2 lines 55-56).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made or used to modify the teachings of Nick with the teachings of Pennisi et al. because it allows to optimize process and rapidly realizes a product.

As to claim 12, Pennisi et al. teaches wherein said process for manufacturing said number of products is an optimum process is taught as optimum path through the processes(abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made or used to modify the teachings of Nick with the teachings of Pennisi et al. because it allows to optimize process and rapidly realizes a product.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Rapp whose telephone number is (703)306-4528. The examiner can normally be reached on Mon-Fri 11:00-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (703)308-0538. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chad Rapp

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Examiner
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cjr

Albert W. Paladini 6-28-07
ALBERT W. PALADINI
PRIMARY EXAMINER